

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 645 – SB 789

March 20, 2013

SUMMARY OF ORIGINAL BILL: Requires the clerks of courts in which commitments to a mental institution are ordered or persons are adjudicated to be mental defectives to report the information described by Tenn. Code Ann. § 16-10-213 relative to orders of commitment or adjudications to the Administrative Office of the Courts (AOC). In addition, the clerks are required to include the date the information was reported to the Federal Bureau of Investigation - NICS Index (NICS Index) as required by current law. The AOC is required to provide written notification to any clerk found not to be in compliance with the reporting requirements of this bill or Tenn. Code Ann. §§ 16-10-213 (circuit courts and criminal courts), 16-11-206 (chancery courts), 16-15-303 (general sessions) and 16-16-120 (county or probate courts). If compliance is not achieved during the subsequent reporting period following notification, then the AOC will no longer accept data from the office not in compliance. The AOC must notify all judges, district attorneys general, district public defenders and court clerks within the district where the noncomplying office is located and the District Attorneys General Conference, the District Public Defenders' Conference, the AOC, and the County Officials Association of Tennessee. The AOC must also notify the chair of the Senate Judiciary Committee and the chair of the House of Representatives Civil Justice Committee of any periods of noncompliance.

Requires reports by the clerks relative to orders of commitment and adjudications of mental defectives to the Tennessee Department of Safety and Homeland Security and the NICS Index required under current law to be made as soon as practicable, but no later than the third business date following the date of the order of commitment or adjudication as a mental defective, instead of on a quarterly basis.

If a service recipient is involuntarily committed to an inpatient treatment facility under Title 33, then the inpatient treatment facility is required to report the service recipient to local law enforcement as soon as practicable, but no later than the third business day following the date of such commitment, who shall report the service recipient to the NICS Index and the Tennessee Department of Safety and Homeland Security as soon as practicable, but no later than the third business day following the date of receiving such notification, for the purposes of complying with the NICS Improvements Amendment Act of 2007, Public Law 110-180 (the Act). The facility is required to report the complete name of the person involuntarily committed, the date the involuntary commitment was ordered, the hospital or treatment resource to which the individual was involuntarily committed, and the date of birth of the person involuntarily committed.

If a service recipient has communicated to a qualified mental health professional or behavior analyst an actual threat of bodily harm against a reasonably identifiable victim or victims, the

qualified mental health professional or behavior analyst is required to immediately report the recipient to local law enforcement. Local law enforcement is required to immediately transmit the report to the NICS Index and the Tennessee Department of Safety and Homeland Security. Such reporting is for the purposes of complying with the Act. The report is required to contain the complete name and all aliases of the service recipient, the name of the mental health professional or behavior analyst and the hospital or treatment resource, and the date of birth of the recipient.

All information reported pursuant to the bill, the confidentiality of which is protected by other statutes or regulations, is required to be maintained as confidential and not subject to public inspection pursuant to such statutes or regulations except for such use as may be necessary in the conduct of any proceedings relative to Tenn. Code Ann. §§ 39-17-1316 (background checks pursuant to the sale of firearms), 39-17-1353 (review of a suspension or revocation of a handgun permit), and 39-17-1354 (judicial review of a suspension or revocation).

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (004497): If a service recipient has communicated to a qualified mental health professional or behavior analyst an actual threat of serious bodily harm or death against a reasonably identifiable victim or victims, and the qualified mental health professional or behavior analyst, using the reasonable skill, knowledge, and care ordinarily possessed and exercised by the professional's specialty under similar circumstances, has determined or reasonably should have determined that the service recipient has the apparent ability to commit the act and is likely to carry out the threat unless prevented from doing so, then the professional or analyst is required to immediately report the recipient to local law enforcement.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

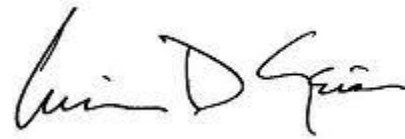
Assumptions for the bill as amended:

- Chapter 578 of the Tennessee Public Acts of 2009 took effect January 1, 2010. The act established mandatory reporting requirements for courts relative to individuals committed to mental institutions or adjudicated as mental defectives.
- According to data reported to the Department of Mental Health and Substance Abuse Services (MHSAS) by the NICS (National Instant Criminal Background Check System) Section, Tennessee submitted 3,199 mental health records to the NICS Index in 2011 and submitted 5,726 mental health records to the NICS Index in 2012.

- According to the AOC, there were 991 filings related to judicial hospitalizations in state trial courts in FY11-12 and 710 such filings in FY10-11. These numbers do not reflect orders or adjudications actually issued and do not reflect filings in general sessions courts that have mental health jurisdiction.
- The bill does not expressly require automation of any reporting processes.
- According to the NICS Liaison Specialist, reports from Tennessee are generally submitted through e-mail.
- Increasing the reporting frequency will not significantly increase the number of records submitted by the clerks required to report under current law. The accountability provisions of the bill may increase the number of records submitted by the clerks required to report under current law. However, due to the unknown number of commitments and adjudications occurring, it is not possible to quantify the increase. It is estimated that any increase in expenditures related to the reporting will be not significant.
- According to the AOC, any reporting required of AOC by the bill can be accomplished within the existing resources of the AOC without an increased appropriation or reduced reversion.
- According to MHSAS, the notification requirements required of Regional Mental Health Institutes (RMHIs) by the bill will result in an increase in administrative expenditures that cannot be determined by MHSAS. It is estimated that the fiscal impact of the bill on MHSAS will be not significant.
- It is estimated that the reporting requirements required of local law enforcement can be accommodated within the existing resources of local governments and that the impact will be not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

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